

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1964 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE R.R.JAIN

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements? No

2. To be referred to the Reporter or not? No

J

3. Whether Their Lordships wish to see the fair copy of the judgement? No

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge? No

HIRJIBHAI M BOTANI

Versus

COLLECTOR

Appearance:

MR GM JOSHI for Petitioner

MRS VK PARIKH, ASSISTANT GOVT. PLEADER for
Respondent No. 1

CORAM : MR.JUSTICE R.R.JAIN

Date of decision: 31/03/97

ORAL JUDGEMENT

Heard Mr.Joshi for the petitioner and Mrs.Parekh learned A.G.P. for the respondent. From the record it transpires that the petitioner was allotted land bearing survey No.380 admeasuring 11 gunthas by the respondent

vide order dated 7th August 1992. The order (Annexure-A) refers to terms and conditions subject to which allotment is made. Condition No.5 and 6 do refer to sale or mortgage by allottee and the rights of Government. Now it seems that, owing to financial constraint and paucity of funds to run the business, the petitioner intends to dispose of the land in question, of course, in consultation with the respondent, and subject to the terms and conditions laid down in allotment order. In this connection the petitioner has already applied for appropriate sanction and permission vide letter dated 30th December 1992, but the respondent - authority has not decided till today. Consequently, the petitioner also sent a reminder on 28th October 1996. As the authority has not decided within reasonable time the petitioner has filed this petition for appropriate writ/direction against the respondent.

2. On the face of it, it appears that the petitioner's application seeking permission to sell the land in question has not been decided by the respondent though a period of more than 4 years has lapsed. It suggests arbitrariness on the part of the respondent authority adversely affecting the interests of petitioner and therefore appropriate direction for expeditious disposal needs be given. Mrs .Parekh, learned A.G.P. for the respondent State submits that, since the respondent authority is bound to decide the same in accordance with law would have no objection if specific directions are given.

3. In light of these facts, the petition is allowed. The respondent is directed to decide in accordance with law the petitioner's application dated 30th December 1992 seeking permission to sell the land in question within four weeks from the date of receipt of writ from this court. Petition accordingly stands disposed of. Rule is made absolute. Direct Service.

31st March 1997